

REMARKS

The present application has been reviewed in light of the non-final Office Action dated October 1, 2008. Claims 1-14 are pending in the present application with claims 1 and 12 being in independent form. By this Amendment, claims 1 and 12 have been amended to clarify the claimed invention.

In the Office Action, claims 1, 2 and 4-13 were rejected under 35 U.S.C. §102(b) as purportedly anticipated by or, in the alternative, under 35 U.S.C. §103(a) as allegedly unpatentable over U.S. Patent No. 5,954,746 to Holthaus et al., (hereinafter "Holthaus"). Claims 3 and 14 were also rejected under 35 U.S.C. §103(a) as allegedly unpatentable over Holthaus.

By the July 2, 2008 Amendment Under 37 C.F.R. §1.116 (to which the outstanding Office Action is responsive to), independent claim 1 was amended to clarify that the claimed ultrasonic treatment device included, *inter alia*, (i) a moveable jaw supported to freely pivot about a first pivot shaft at the peripheral surface of the manipulating section main body, and (ii) a moveable handle supported to freely pivot about a second pivot shaft. Independent claim 12 was similarly amended.

The Examiner contends in the outstanding Office Action that the feature of a moveable handle supported to freely pivot about a second pivot shaft, as set forth in each of claims 1 and 12, is disclosed in Holthaus by clamp jaw actuation mechanism 26 and camming pin 76.

Holthaus describes a clamp jaw actuation mechanism 26 as including thumb ring 70 that is connected to a first camming pin 74 and a second camming pin 76 by lever arm 72. Notch 84, which is designed to receive wire form 86, is positioned at the distal end of lever arm 72. As clamp jaw actuation mechanism 26 moves from its first, closed position to its second,

open position, camming pins 74 and 76 move along camming channels 54 and 56 respectively. Thus, the substantially arcuate motion of clamp jaw actuation mechanism 26 is translated into the substantially linear motion of notch 84 which, in turn, moves actuation rod 52 along first axial bore 48.

The Examiner's contention that the movement of a camming pin within a camming slot discloses or suggests the claimed pivoting of the moveable handle about a pivot shaft is inconsistent with both the use of the terms "pivot" and "pivot shaft" in the context of the written description and also the plain meaning of the terms "pivot" and "pivot shaft".

By this Amendment, independent claim 1 has been amended to further clarify that the claimed ultrasonic treatment device includes, *inter alia*, (i) a moveable jaw that is supported to freely pivot about a first pivot shaft as a fulcrum and (ii) a moveable handle supported to freely pivot about a second pivot shaft as a fulcrum. Independent claim 12 has been similarly amended. Support for the clarifying amendments to claims 1 and 12 can be found at, for example, page 12, lines 14-24, of the specification as filed.

Applicant respectfully submits that even under the broadest reasonable interpretation of the claims, Holthaus does not disclose or suggest the feature of a moveable handle supported to freely pivot about a second pivot shaft as a fulcrum at the peripheral surface of the manipulating section main body, as set forth in each of independent claims 1 and 12.

By this Amendment, independent claim 1 has also been amended to clarify that the claimed ultrasonic treatment device include, *inter alia*, (i) a manipulating section main body wherein an ultrasonic probe is inserted and arranged at the distal end thereof, and (ii) a moveable handle and a moveable jaw being directly linked for opening/closure operation of the moveable

jaw with respect to the ultrasonic probe. Support for the clarifying amendments to claims 1 and 12 can be found at, for example, FIG. 4 and page 11, lines 1-4, of the specification as filed.

Applicant notes that clamp jaw actuation mechanism 26 and clamping jaw 24 in Holthaus are not directly linked for opening/closure operation of clamping jaw 24. Holthaus describes the substantially arcuate motion of clamp jaw actuation mechanism 26 being translated into the substantially linear motion of notch 84 which in turn moves actuation rod 52 along first axial bore 48. Actuation rod 52, being connected to clamping jaw 24 by jaw hook 89, pushes and pulls on clamping jaw 24, which pivots around jaw pivot pin 90.

Therefore, Applicant respectfully submits that Holthaus does not disclose or suggest the limitation of a moveable handle and a moveable jaw being directly linked for opening/closure operation of the moveable jaw with respect to the ultrasonic probe.

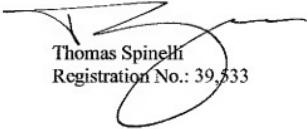
Anticipation under 35 U.S.C. §102 requires that each and every limitation of the claimed invention must be disclosed, expressly or inherently, by a single cited reference.

Applicant respectfully submits that the claimed ultrasonic treatment device set forth in each of independent claims 1 and 12 is patentable over Holthaus at least because Holthaus does not expressly or inherently disclose or suggest the features of: (i) a moveable handle directly linked with the moveable jaw and (ii) a moveable handle supported to freely pivot about a second pivot shaft as a fulcrum at the peripheral surface of the manipulating section main body. Applicant further submits that claims 2-11, 13 and 14 are patentable over Holthaus at least based on their dependency to independent claims 1 and 12.

Accordingly, withdrawal of the rejections under 35 U.S.C. §§102 and 103 is respectfully requested.

In view of the above, it is respectfully submitted that this application is in condition for allowance. Accordingly, it is respectfully requested that this application be allowed and a Notice of Allowance issued. If the Examiner believes that a telephone conference with Applicant's attorneys would be advantageous to the disposition of this case, the Examiner is requested to telephone the undersigned.

Respectfully submitted,



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